IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.307 of 2006

Jekatha ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-8.

3.The Inspector of Police,
S-11, Tambaram Police Station,
Tambaram, Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in No.528/2005 dated 28.11.2005 on the file of the second respondent herein, quash the same as illegal and direct the respondents to produce the detenu Packiaraj, son of Bangaru now confined in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mr.N.Duraisamy
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by V.DHANAPALAN J.)

The petitioner, who is the mother of the detenu by name Bakkiyaraj, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic

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Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 28.11.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 30.12.2005 was received by the Government on 04.01.2006 and remarks were called for on 05.01.2006 and the remarks were received by the Government on 13.01.2006 and the File was submitted on 16.01.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary also on the same day i.e. on 16.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 17.01.2006. The rejection letter was prepared on 30.01.2006 and the same was sent to the detenu also on the same day i.e. on 30.01.2006 and served to him on 31.01.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 17.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 30.01.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai, Egmore, Chennai-8.

3.The Inspector of Police, S-11,
Tambaram Police Station, Tambaram, Chennai.

4. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

5. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

6. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. N. Duraisamy, Advocate SR No.27040

HCP. No.307 of 2006

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SR/3.7.2006

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